

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ASTRAZENECA LP, AKTIEBOLAGET)	
DRACO, KBI INC. and KBI-E INC.,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 08-305-GMS
)	
BARR LABORATORIES, INC.,)	
)	
Defendant.)	

STIPULATION AND [PROPOSED] ORDER

WHEREAS, Defendant Barr Laboratories, Inc. (“Barr”) have submitted an abbreviated new drug application (“ANDA”) to the FDA seeking FDA approval to commercially manufacture, use, import, offer for sale, and sell budesonide enteric coated capsules, 3 mg (the “Barr ANDA product”) before expiration of U.S. Patent Nos. 6,423,340 (“‘340 patent”) and 5,643,602 (“‘602 patent”).

WHEREAS, Plaintiffs AstraZeneca LP, Aktiebolaget Draco, KBI Inc., and KBI-E Inc. (collectively, “AstraZeneca”) have filed suit against Barr alleging, *inter alia*, infringement of the ‘340 and ‘602 patents under 35 U.S.C. § 271(e)(2)(A).

WHEREAS, in its June 12, 2008 “Answer, Affirmative Defenses and Counterclaims” (“Answer”) (dkt. no. 7), Barr has sought a trial by jury for all matters for which it is entitled to a trial by jury.

WHEREAS, AstraZeneca does not presently seek money damages from Barr in this action.

WHEREAS, Barr agrees to withdraw voluntarily its demand for a trial by jury without prejudice if this Court grants to it leave to reinstate its demand for trial by jury in the event that circumstances change and AstraZeneca requests an award of monetary damages.

NOW THEREFORE, Plaintiff AstraZeneca and Defendant Barr stipulate and agree, subject to the approval of the Court, that Barr hereby withdraws its jury demand set forth in its Answer without prejudice to renew its demand in the event that AstraZeneca files a subsequent pleading in which it seeks damages in this action.

IT IS SO STIPULATED:

Dated: July 25, 2008

MORRIS, NICHOLS, ARSHT & TUNNELL, LLP

/s/ James W. Parrett, Jr.

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SO ORDERED:

Dated: _____

Dated: July 25, 2008

PHILLIPS, GOLDMAN & SPENCE, P.A.

/s/ John C. Phillips, Jr.

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Gregory M. Sleet
United States District Court Judge